Supreme Court, U.S.
FILED

107

08-443 SEP 3-2008

OFFICE OF THE CLERK
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IN THE SUPREME COURT OF THE UNITED STATES

Case----------

WILLIAM SMITH (PRO SE)

Petitioner

V.

ALVIN FRIEDMAN, ET AL SUBSTITUTE

TRUSTEE

Respondent

On Petition for writ of Certiorari to The DIRECT COURT OF APPEALS MARYLAND CONSTITUTIONAL APPEAL ON EXPRESS WAIVER CASE DATE.8-13, -07. No.-07-11

PETITION FOR WRIT OF CERTIORARI

(Pro se) Petitioner William Smith 1001 Saddle Hill Rd. Deland Fl. 32720 Ph# 386-734-0476

QUESTIONS PRESENTED FOR REVIEW

*** (1) Trial Court Manifest Plain Constitutional Due Process Err to Amend #5 Guaranteed Protection Rights against this Injustice.** ***Was Not Constitutional Correct.---*** **Depriving petitioner of Plain justice, and protection, pervasion to, (Home), good life, liberty, and property. (a) Fair hearing. (b) fair trial. (c) Fair Timely Notice right of innocent, to be proven guilty, by the evidence, by trial by jury.-** ***Facts 1 thru 12 remedy is NOT impossible by certiorari TO honor guarantee justice To Reckless substantial, unjustifiable, intent to abuse the mortgage deed of trust contract, without any legal timely notice, summons, service resting on an illegal default less debt not verified. No case to the legal process as a matter of law.!?***

(2) Trial court Manifest plain Constitutional Due Process and Equal Protection Err to Amend #14 Guaranteed Protection Rights to be enforced, against the respondent bad faith intent.--** ***(a) Lack of Notice, jurisdiction (extrinsic fraud) to all court authority. (b) Lack of Verified Default Debt, no legal case. (c) Requesting illegal (Ex parte) summary judgment, without any Notice, Summons, Service to this (pro se) petitioner. Is Reckless substantial, unjustifiable abuse of the legal integrity of Constitutional Rights

(3) Court must let justice be done, though the heavens may fall. Defective summary judgment is not a substitution, for trial by jury.** ***Resting on creative form, technicality, to over rule substantive evidence of law. Where the respondent could not meet its burden of proof. When truth of fact, on good best evidence should never embarrass any court, law, justice speaking with one voice. Causing certiorari to be plain necessary.

LIST OF PARTIES

[ ] All parties do not appeal in the caption of the case on the cover page. Alist of all parties to the proceeding in the court who's judgment is the subject of this petition is as follows.

Agent #1 Case CAE-97016794 (Extrinsic Fraud jurisdictional) Respondent substitute trustee Supreme Court bar Kenneth J. Mac Fadyen, P.A. Totman Building Suite 400, 210 E. Redwood Street Baltimore MD. 21202–PH# (410)-685-1763

Agent #2 Case CAE-97016794 (Extrinsic Fraud jurisdictional) Constitutional Direct appeal to Respondent Alvin Friedman, Substitute trustee-- Express Waiver Admission Defense 8-13-07 Case # (07-11). Lack jurisdictional authority, respondents Attorney John R. Fischel Miles & Stockbridge, P.D. #10 Light street Baltimore MD.21202– PH# (410)-727-6464

OPINIONS BELOW

From this unreported opinion of the Maryland, Court of Special Appeal order # 906 September term. 2005,Maryland Rule 8-114. Second Court , manifest Constitutional plain err UNREPORTED OPINION- 15- September 05. On. Supreme Court Express Waiver of admission defense denied 8-13-07 07-11, ON. (APPENDIX -A) --THRU- (APPENDIX A-4)

Trial Court original Manifest constitutional plain err. TO this direct appeal of constitutional due process Amend #5. And Due process and equal protection strict scrutiny, prejudice by differential treatment, all court's lack legal jurisdictional authority to this end. Amend #14. To Maryland court of appeal's, COURT of last resort for constitutional justice TO (APPENDIX-B)

JURISDICTION

[B] For cases from Maryland state court of appeals last resort, Direct Constitutional Question denied by Appeal, TO Maryland Court of Appeals

[B] A timely petition for rehearing/Reconsideration was therefore denied on the following date June 13, 2008 and a copy of the order denying reconsideration appears as (APPENDIX B)
The jurisdiction of this court is invoked under 28 U.S.C. 1257(a).

CONSTITUTIONAL AUTHORITY STATUTORY PROVOKED INVOLVED

MARYLAND STATE CONSTITUTIONAL GUARANTEED AUTHORITY

Maryland Circuit Court Manifest constitutional plain err. Punishment without due process of law. Equal Protection of law of the land direct authority.

(a) Article #1 Court can not take away Guaranteed Rights.
(b) Article #3 Appellate Court jurisdictional authority
(c) Article #4 State Court Constitutional duties.
(d) Article #6 Supreme Court Due Process/ Law of the Land Equal Protection.
(e) Article #23 Trial by jury/Civil Proceedings.
(f) Article #24 Due Process
(g) Maryland Circuit Court of Appeals authority, used the supreme court as direct authority, over errs of due process and equal protection, as per Amendment #14 , U.S. Constitutional law judgment

FEDERAL CONSTITUTIONAL BILL OF RIGHTS GUARANTEED AUTHORITY

Amend #4- Maryland Courts Manifest Constitutional Plain Err.-- Deprived of legal rights. Due Process to bar violation of unreasonable search and seizures resting on default less, unverified debt. Of fraud foreclosure breach of contract, as per Mortgage deed of trust. To verify legal default debt as promised.

Lack of legal due process. To court legal jurisdictional authority, Notice, Summons, Service, over case as a matter of law . Led to Illegal fraud (ex parte) hearing, WHICH led to Illegal, Defective illegal (Ex parte) summary Judgment, to the end not legal as a matter of law.!?

Amend#5- Maryland Court Manifest Constitutional Plain Err. -Deprived of legal due process of fair notice, summons, service. Fair hearing. Fair trial by jury. To make petitioner, pay twice for a crime the courts now know the petitioner did not commit. Depriving petitioner of due process, rights good Life, Liberty, and Property in question, without Due Process of Law.

Amend #14 Maryland Courts Manifest Constitutional plain err.- Deprived petitioner of good life, Liberty and Property without Due Process and Equal Protection of the strict scrutiny, differential treatment Jurisdiction of Maryland and Federal Law Authority as Guaranteed by Law, by allowing Technicalities to over rule Justice TO Side Step Constitutional law.

STATEMENT OF THE CASE

The innocent petitioner, under oath, told the courts , the truth. This err, is plain reversible err. Petitioner is exercising its legal constitutional guaranteed rights to defend, against this evil crime. With clear meritorious defense, of due process to respondent crime and trial court, appellate court (manifest plain constitutional err), of compelling state and federal constitutional law evidence, against Bank of America original bad faith, (intrinsic fraud) foreclosure, breach of contract, lack of a legal default debt case 1996- 97.!? As required, by contract. *Crime clearly Cross the LINE* on fabricated contract legal duty" evidence Rule *1-341*NOTE-Petitioner did not default contract.*!"Bank Court had no constitutional right to take my home.

Bank of America did file #1 and 2 express waivers of admission defense (plea) for their crime. *Requesting leniency, and mercy from the courts, for this evil deed .In emotional err, the court judgments to date, make the *innocent petitioner guilty of a crime, the petitioner did not commit*. And make the guilty bank innocent, of the crime committed to, and go free to evade the law .

(A) Banks original Agent Friedman's bad faith evil (Extrinsic Fraud) crime of compelling lack of legal jurisdiction, to any court filed Aug-20th 97 injustice., THAT clearly cross the line of integrity to this illegal process, fabricating evidence , *is fraud on the court*, For lack of legal (ex parte) hearing, without notice to the (pro se) petitioner, to defend, and *present all this indisputable, strong damaging compelling evidence, to all courts err on this federal constitutional due process, and equal protection conflict end, is unconstitutional.*

The circuit trial court of Maryland plain, harmful

constitutional due process and equal protection manifest Err , Is without legal , timely jurisdictional evidence , has (NO CASE). Over this illegal FRAUD foreclosure, breach of contract, (NO CASE) as a matter of law.!? Can't by err, be enforce Against this innocent petitioner rights to his property, as per amend #5 and Amend. 14 compelling Constitutional due process and equal protection rights.!? Rule 8-131

(Respondent Express Waiver, corroborates this truth. Rule 2-322 And *Can not, be used to Entrap or Bar Constitutional Guaranteed Due Process Justice),to triumph and trump constitutional guaranteed law!?

POINT OF LAW. A party legally within the jurisdictional authority of a competent court, can file its legal claim before said court. A party within the jurisdiction of the law of the land, *rights are instantly protected, by the authority of the law*, and up held by all the courts for compelling equal justice to Amend #5 and 14 protecting petitioners rights to this property in question .!? *Petitioner have legal rights to property. Court Had right to honor law, and tell truth.*

***Respondent, court, has no right or claim to property.!*POINT OF LAW- Parties within the jurisdictional authority, of the law of the land. *Is required to know and obey the law.* *Party that obey the law, is an innocent party in the eye of the law of reason. *And must be protected by the highest level of law.*!* Party that disobey the law, *and is found to be a guilty party*, and must face the legal punishment under the protection of law, must not go free of IT'S JUSTICE *This case has been through the legal process to this court *before, 4-12-02,- 01-1391 Again 8-13-07,-07-11 and Again, DENIED,* Coming to rest**

on the respondents, own free will Express Waiver of Admission Rule 2-322 Defense of a Guilty (Plea).!?

***The circuit court rules , principle of constitutional law, speak to plain legal jurisdictional authority for *others, but fail in its duty to preserve the law for this (pro se) petitioners RIGHTS why* To plain legal timely verification of default debt to contract. To legal prima facie case, NOT this fraud, requires legal plain due process of law to be legally enforceable by the courts equal protection of law, to this petitioners legal rights**

The constitutional guaranteed rights of the peoples protection, in this case must know no mother or farther. *To let justice be done though the heavens should fall. This evil deed crime, is not impossible for one voice court justice, STANDARD requirements, on clear plain manifest circuit court constitutional err. *Bank and agent Friedman did not deny they never, ever had a legal case, and cross the line to this fraud end.!?

Respondent attorney Friedman, with unclean hands, and privy, first hand knowledge, of the banks fraud foreclosure ,*never denied the bank had instructed,* its attorney, ***to not verify the fraud foreclosure default debt,*** as pursuant to the terms of the contract, mortgage deed of trust. As promised by attorney Mac fadyen **July 11th 97** notice letter **DUTY** , signed by attorney **Kenneth J. Macfadyen!?*NOTE- *Attorney Macfadyen stated clearly, to the trial court, in open court 9-11-99 hearing, that the bank would not let the attorney verify the default debt to this end.! Respondent admit liability***

In the name of constitutional justice this case is over

*The petitioner filed its **Aug-5th 97** signed dispute of this fraud foreclosure, default debt to be verified as required by law. ***DUTY- The bank would not, could not,***

verified this fraud fabricated default debt.!? They had no legal case as a matter of law for any court to enforce FACT Court err illegally took home on admitted fraud

******Respondent fraud unconstitutional*** .Did sham the court on fabrication **August 20th 97,** filing this illegal **NO case to** docket, as a proper, standard requirements (legal foreclosure) to make petitioner, and family **pay over and over**, long after petitioner is dead for its crime.

(Extrinsic Fraud FACT #1)** Respondent had full detail privy, knowledge to the banks (intrinsic fraud) accountability, Liability for this damages.—**(FACT #2)** ***Respondent knew, bank could not verify fraud default debt. And no competent court could enforce Plain fraud against petitioner rights.—**(FACT #3)**.***Respondent had right*** to defend BANK'S crimes against the contract duty principle of Plain law.--- **(FACT #4)** ***Respondent had absolutely no right*** to fabricate the Maryland Circuit Court Civil- non-domestic case information sheet to case CAE 97-16794 to set- up the court for this emotional err.

(FACT #5) With out this safeguard (protection sheet, of plain innocent petitioner rights of law, due process. Respondent could not file its no case illegal intent to scam court TO DOCKET.? To evade constitutional law Rights Trial, Jury, be heard, seizure.!

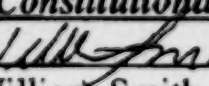
(FACT #6) ***Respondent knew, no timely, notice, summons,. Service, by certified mail restricted delivery*** , was sent to the (pro se) petitioner to dispute this illegal known action to scam court.–**(FACT #7)** ***Respondent know, but requested an illegal rush to plain (ex parte) summary judgment injustice***, with out notice to the (pro se) petitioner, to ***Contaminate, Intimidate, Manipulate,*** scam to embarrassed court ***retaliation injustice*** to this

end.-(**FACT #8**) ***Respondent would plain deny intent and dispute*** in the circuit trial court, court of special appeals, to its bad faith crime. And the court with extreme unfair prejudice ***manifest constitutional error*** to preponderance of **plain** evidence in the records before the court and the clear and convincing evidence, would ***deny petitioner plain due process, rights to laws.***

(**FACT #9**) Trial circuit court erred on due process, Amend #4 ,# 5& 14, due process and equal protection scrutiny, discriminating is plain differential treatment to principles of law, plain federal constitution guaranteed protection rights, of this (pro se) petitioner right to life, liberty, property. ***As required by law***.—(**FACT #10**) The Court of special appeals chose by plain unreported opinion, **side step constitutional bill of rights**, and bar lower court from Revisory power. ***Should not affect this high court justice***. (**FACT #11**) The Maryland court of appeals,. **last resort , plain side step** and would not hear embarrassment err, ***is retaliation against rights***, of innocent petitioners plain constitutional standard Rights

(**FACT #12**) **Statement of the case , and** Facts 1 thru 12 is clear, plain manifest constitutional err,. It is clear, fair and plain ***NECESSARY*** for supreme court to grant certiorari and **finalize this fraud on fraud**, which rest on ***fraud intent of no jurisdictional authority***, in err, use respondent express waiver of admission, guilty (plea) defense, illegally to BAR plain constitutional , due process and equal protection of people, petitioners, rights to (home) justice to recover over $ 500,000.00 damages and counting. **And Not let respondent crime, go free.***

Petitioner Pray For Constitutional Justice Protection.

Respectfully  **Submitted**

(Pro se) petitioner William Smith- 1001 Saddle hill rd Deland Fl.32720- Ph#386-734-0476.

AFFIDAVIT

I William Smith (pro se) petitioner, certified under the penalty of perjury forgoing petition for writ of certiorari request and the facts and evidence herein in true and correct.

EXECUTED.....Sept. 3, 07.....

RESPECTFULLY SUBMITTED

CERTIFICATE OF COUNSEL

I William Smith (pro se) petitioner certify in good faith, three copies of this requested for writ of ceritorari petition, was sent - day of September 07 to respondents Attorney of record- John R. Fischel of Miles and Stockbridge P.C. #10 Light Street Baltimore Maryland 21-202. PH# (410)-727-6464

In good faith RESPECTFULLY SUBMITTED

(Pro se) Petitioner

Facsimile/Signature/Exact Copy
Unreported. In the court of special appeals of Maryland
No. 906 Sep Term, 2005
William Smith V. Alvin Friedman ET.AL. Substitute Trustees
Murphy, C.J.,-Getty, James S. (Ret, Specially assigned), Rodowsky, Lawrence F.-(Ret, Specially assigned),-- JJ.—Opinion by Getty, J.—filed: April 28th, 2006—CAE:-97-16794

Compounding the absent of an Appealable issues is appellant's in ability to st This matter originated with a foreclosure sail filed in 1997 by the Substitute trustees in their capacity as foreclosure counsel to Bank of America. The property, being foreclosed for default in payments on a promissory note, was the residence of William Smith, appellant, who resided in prince George's county.

The contretemps of this foreclosure action are that, after four appeals, all denied adversely to appellant, neither the Supreme Court of the United States, the court of appeals, the Court of special appeals, nor the Circuit Court of prince Georges County can dissuade appellant from continuing this futile efforts to resuscitate his claims of fraud, mistake or irregularity in the foreclosure proceeding.

ate clearly and concisely his response to the ruling he has appealed into prior unreported proceedings before this court, similar problems arose. In William Smith V. Bank America Mortgage, FSB, No.1832,September Term 1999, this court stated: "Smith has appealed to

this court from the child's court's decision. His arguments on appeal or for the most part, unintelligible."

In William Smith V. Bank of America F.S.B., No.1351 Sep term ,2002 commenting on appellant's "Unfortunate" decision to represent his self, this court stated: "ignorance of procedure can prove Lethal to this case for a novice such as Smith in Smith's case, it has foreclosed his opportunity to attempt to prove that the sale was the result of fraud.! Unfortunately, Appellant has not excepted the court's advice.

It is of no consequence, how ever, that the appellant is representing himself because we require that all parties comply with the rule appellate procedure

The procedural evidentiary and appellate rules apply alike to parties and their attorney's. No different standards apply when parties appeals pro se.—Tretick V.Layman, 95 Md. App.62,86 (1993).

THIS CASE

A Foreclosure action was filed by the substitute trustees end 1997, and a foreclosure sale was conducted on July-27-1998 the bank purchased the property for $110,835.00. the sale was ratified of Nov-9-1998 and no exceptions was filed.

The matter was referred to a court auditor, who reported on April 15-1999 that the Nets proceeds for the sale resulted in a deficiency of $1,158.34. appellate filed and exceptions to the auditor's report and, prior to a hearing on its exceptions, on July-21-1999, he filed suite against the bank, alleging that Bank Employees fraudulently altered his check.He did no

seek to void the foreclosure, but he request damages in the amount of $1,500,00.

Appellant's Exceptions to the auditors was over ruled by the circuit court in Sept.99 following the affirmance of the auditor's report, appellant filed his first appeal to this court, not with standing that the foreclosure was then and enrolled judgment. He alleged in his appeal that the foreclosure sale was contained by fraud, deception, and irregularity. This court held that the appellant failed to present any creditable evidence to a trial court of fraud, mistake or irregularity, as contemplated by the rule 21-535 that would warrant vacating the enrolled judgment ratifying the foreclosure sale of appellant's house.

Undaunted by this court's denial of his motion to revise the judgment of the trial court, appellant filed a petition for writ of certiorari, which the court of appeals denied on or about June 25th, 2001 appellate filed a petition for writ of certiorari to the Supreme Court of the United States.

In addition to this actions filed against the substitute trustee appellant filed and action against Bank America and Attempted to raise the same issue that was raise in the foreclosure case against the same party. The complaint was dismissed by the trial court with prejudice in Aug.25th -2002. On Aug 19th-2002 another appeal was filed. William Smith V. Bank America Mortgage F.S.B. No.1351, Sep term 2002. In an unreported filed June 24-2003 this court affirm the judgment in favor of the bank, based upon the doctrine of Res Judicata.

(APPENDIX A-2),

Again, appellant sought review by the court of Appeals and by the Supreme Court, both petitions were denied. In September-2004 and on January 3rd 2005, April 13th 2005, and May 25th 2005 appellate motion alleging "illegal jurisdiction" which resulted in the trial court (platt, J.) Stating the appellant's motion was with out merit and has previously been denied by the court on May 16th 2005. Thus, appellant ignored May 16th denial of his motion by Judge Platt and refiled the same motion nine days later.

Appellant's most recent appeal, date, June 27th 2005, we presume is in response to Judge Platt denial of the appellant motion questioning the court's jurisdiction, We note that, in appellants motion filed in the Supreme Court against the substitutes trustees and against Bank America, the respondents in each case filed a notice with the court stating that "I do not intend to file a response to this petition for a writ of certiorari unless one is requested by the court." Despite the fact that both petitions were denied, appellant construes the respondent's electing not to file a reply as an admission of guilt in the allegedly unlawful foreclosure proceedings.

For the final time, we instruct appellate that the foreclosure proceeding had been upheld by ever court from the Circuit Court of Prince George's County through the Supreme of the United States. Any attempt by appellant to continue filed frivolous motions or appellants relating to foreclosure proceed will not warrant a response beyond denied "denied"

(APPENDIX A-3),

Further consideration for this case will be a waste of judicial resources and any added expensive to the appellant neither is justifiable.

Appeal Dismissal; Costs Will be Paid by appellant

Appendix #19 appear from this dates events after

Facsimile/Signature /Exact Copy

In The Court of Appeals Of Maryland . Petition Docket. No. 504 September Term, 2007 (No. 906, Sept. Term, 2005, Court Of Special Appeals)

William Smith V. Aivin Friedman, et al. Substitute Trustee

ORDER

-The Court having considered the motion for reconsideration filed in the above entitled case, it is.

ORDERED, by the court of appeals of Maryland, that the motion for reconsideration be, and it is hereby, denied.-

/s/ Robert M. Bell -Chief Judge

DATE: June 13, 2008-

Judge Murphy did not participate in the consideration of this matter.

(APPENDIX- B)